S.B. CIVIL WRIT PETITION NO.6276/2003.
(State of Rajasthan v. Babulal Mahatma)

DATE OF ORDER: JANUARY 24, 2005

HON'BLE MR. JUSTICE R.P.VYAS

Ms. R.R.Kanwar, Additional Government Advocate,
for the State of Rajasthan.

The instant petition has been filed with a prayer that by an appropriate writ, order or direction, the impugned judgment and award dated 10.3.2003, passed by the Judge, Labour Court, Jodhpur may be quashed and set aside.

The facts giving rise to the instant petition are that Respondent No.1 – Babulal Mahatma (hereinafter referred to as 'the workman'), filed a claim petition before the learned Labour Court, Jodhpur, mentioning therein that he was engaged on the post of Driver from 10.10.1994 by the Water Shed Development and Soil Conservation Department, Nagaur and he worked with the Deputy Director, Water Shed Development and Soil Conservation Department, Nagaur till 23.11.1995 continuously. It was further submitted that the respondent-workman worked from 10.10.1994 to 23.11.1995, but his services were retrenched by verbal order dated 24.11.1995, without any reason. It was also stated that he had completed 240 days in one year and before retrenchment of his services, neither any notice was given to him, nor any compensation was paid to him. Thus, the petitioner (Department) violated the provisions of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the ID Act, 1947'). It was stated that after retrenchment of his services, one Mohan Giri was engaged as Driver.

The non-claimant (Department) filed an affidavit of Officer Incharge Shri K.C.Shrivastva, Assistant Agriculture Engineer, stating therein that the workman

was never engaged as Driver, nor he was given any payment by the Department. It was specifically mentioned therein that on the one hand, the workman filed a case before the Authority under the Payment of Wages Act and demanded Rs.50/- per day for the period 10.10.94 to 23.11.95 and, on the other hand, he filed the claim petition mentioning therein that he was being paid Rs.1500/- per month. It was also stated that the respondent-workman, by illegal means, wanted to get the Government employment by hook or crook. A prayer was made by the non-claimant (Department) before the Labour Court that the case of the workman-respondent may be dismissed in the light of the judgment of the Hon'ble Supreme Court given in the Civil Appeal No.5087/98 (Maluram v. State of Rajasthan).

The learned Judge, Labour Court, after hearing the parties, passed the award dated 10.3.2003, in favour of the respondent-workman and ordered the petitioner (Department) to reinstate him in service with 30% per cent back wages from the date of the reference, i.e., 14th October, 1997.

Heard learned counsel for the petitioner.

The learned Labour Court , after all objective considerations and with subjective satisfaction, has given findings to the effect that it is amply clear from the Log-Book that the workman has worked from 10.10.94 to 23.11.95 as a Driver with the petitioner (Department) continuously. Apart from that, the learned Labour Court also found the version of the Department to be incorrect that the respondent-workman was never given appointment by the Department. A specific finding was given that the respondent-workman has worked for more than 240 days as Driver. Merely because the appointment order was not given to the respondent-workman by the petitioner-Department, does not make any difference that he was not employee of the petitioner-Department. The signatures in the Log-Book of the Driver also testify the fact that he was employee of the petitioner-

Department and has worked for more than 240 days.

In this view of the matter, I do not find any reason to interfere with the findings of the learned Labour Court. The instant petition lacks the merits. I find no force in the instant petition. The same is hereby dismissed in limine.

(R,P.VYAS), J.